

**JAN 19 2006**

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**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

CRISTOBALITO RUIZ-SANCHEZ,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-71676

Agency No. A79-789-379

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted January 9, 2006<sup>\*\*</sup>

Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Cristobalito Ruiz-Sanchez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' summary affirmance of an

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

immigration judge's denial of his application for cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. We deny the petition for review.

Ruiz-Sanchez contends that the IJ erred as a matter of law in concluding that he failed to satisfy the continuous physical presence requirement under 8 U.S.C. § 1229b(b)(1)(A). Ruiz-Sanchez testified that on several occasions in 1994 immigration authorities apprehended him in the United States and returned him to Mexico after he signed a document agreeing to voluntary departure.

The IJ properly determined that Ruiz-Sanchez's acceptance of voluntary departure constituted a break in continuous physical presence such that he failed to demonstrate the requisite ten years of continuous physical presence. *See Vasquez-Lopez v. Ashcroft*, 343 F.3d 961, 972 (9th Cir. 2003) (per curiam). Unlike the petitioner in *Tapia v. Gonzales*, 430 F.3d 997 (9th Cir. 2005), the record does not support Ruiz-Sanchez's contention that he returned to Mexico without the threat of deportation.

**PETITION FOR REVIEW DENIED.**